THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO :1453 of 2005

Dt:20.08.2005

Between:

The Etikoppaka Co-op. Sugar Factory Ltd.

.. Appellant

and

The Etikoppaka Sugar Factory Employees and Workers Union

and others.

.. Respondents.

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO :1453 of 2005

JUDGMENT: (Per the Hon'ble Smt.Justice T.Meena Kumari)

This writ appeal is preferred against the order, dated 16.02.2005, in W.P.No.20672 of 2004.

The first respondent is a Trade union consisting of staff and workers of the third respondent. It is the case of the first respondent that despite earning substantial profits, the third respondent has not paid the bonus to its employees from 1998.

Hence, the employees of the first respondent filed W.P.No.5721 of 2004, which was allowed on 21.07.2004 directing the third respondent to pay the minimum bonus to its employees from 1998 onwards. The second respondent granted exemption for payment of bonus to the employees of the third respondent under Section 36 of the Payment of Bonus Act, 1965 (for short 'the Act') vide G.O.Ms.No.219 Industries and Commerce (Sugar) Department, dated 01.10.2004. Hence, the first respondent filed the present writ petition against the appellant and respondents 2 and 3 challenging G.O.Ms.No.219, dated 01.10.2004 on the file of the second respondent.

On a careful perusal of the material available on record and after hearing both the parties, the learned Single Judge, through the order under appeal, allowed the writ petition holding that the impugned proceedings cannot be said to be based upon objective facts furnished by the third respondent. He further observed that the third respondent has not produced the copy of the letter seeking exemption from the Government and therefore, the G.O. suffers from legal infirmities and is liable to quashed. It is also observed that the order does not preclude respondents 1 and 2 from taking appropriate decision in calling for all the data from both the parties, by giving an opportunity to the first respondent and issuance of notification under Section 36 of the Act exempting the payment of bonus. Aggrieved by the said order, the appellant preferred this appeal.

Heard both the counsel.

During the course of arguments, it has been brought to the notice of this Court that the Government has already initiated action in pursuance of the order passed by the learned Single Judge, in taking appropriate action in the matter and the same is in progress. Accordingly, the Commissioner and Director of Sugar, A.P., Hyderabad, the third respondent, issued a notice, dated 10.08.2005, to the appellant directing to submit proposals along with objections and relevant data etc,. within ten days from the date of receipt of written objections from the first respondent.

Under the above circumstances, we do not find any reason to interfere with the order under appeal. However, there shall be an interim direction to the second respondent to dispose of the matter on its own merits, in accordance with law, un-influenced by any of the observations made by the learned Single Judge, duly giving opportunity to both the parties, within a period of four months from the date of receipt of a copy of this Order.

With the above observations, the writ appeal is disposed of.

Now, it has been pointed out by the learned counsel for the first respondent that no request seeking exemption has been made by the appellant. However, the material papers produced by the Government go to show that the appellant has sought exemption under Section 36 of the Act *vide* its letter, dated 19.05.2004.

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(T.MEENA KUMARI,J

Dt:20.08.2005

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P.LAKSHMANA REDDY,J)

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